

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DANIEL O'NEILL

Plaintiff,

v.

CIV 11-1044 BB/KBM

RALPH TRUJILLO,
TOM CLAYTON, and
PRESENT PAROLE BOARD,

Defendants.

ORDER DENYING APPOINTMENT OF COUNSEL

THIS MATTER is before the Court on Plaintiff's *pro se* motion seeking appointment of counsel and a motion for hearing on his complaint. *Docs. 3, 5*. This Court granted Plaintiff permission to proceed *in forma pauperis* and has sent him the necessary documents to submit an initial partial payment or show cause why payment should be excused. *See Docs. 4, 7*.

The Sixth Amendment does not guarantee right to counsel in civil cases and, thus, there is no automatic right to counsel in prisoner civil rights cases under § 1983. *E.g., Parker v. Bruce*, 109 Fed. App'x 317, 321 (10th 2004) (citing *Wendell v. Asher*, 162 F.3d 887, 892 (5th Cir. 1998), *Abdur-Rahman v. Mich. Dep't of Corr.*, 65 F.3d 489, 492 (6th Cir. 1995), *Poole v. Lambert*, 819 F.2d 1025, 1028 (11th Cir. 1987), *MacCuish v. United States*, 844 F.2d 733, 735 (10th Cir. 1988), and *Bishop v. Romer*, 1999 WL 46688 at * 3 (10th Cir.), *cert. denied*, 527 U.S. 1008 (1999)). In considering whether to appoint counsel for indigent plaintiffs under 28 U.S.C. § 1915(d), the

factors this Court should consider include “the merits of the litigant’s claims, the nature of the factual issues raised in the claims, the litigant’s ability to present his claims, and the complexity of the legal issues raised by the claims.” *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995) (quoting *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991)).

Most fundamentally, the motions are premature as initial financial matters must be resolved before the case will move forward. In addition, Plaintiff asserts that the parole board did not honor a state judge’s order granting him habeas relief. His complaint is thorough, understandable, and documented. This and his other filings demonstrate the Plaintiff has proved capable of presenting his claims. Thus, I find that appointment of counsel is not warranted at this time.

Wherefore,

IT IS HEREBY ORDERED that Plaintiff’s motions for appointment of counsel and hearing (*Docs. 3, 5*) are **denied without prejudice**.


UNITED STATES CHIEF MAGISTRATE JUDGE